IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23607 of 2004

Between:

Sri Ram Milan Yadav, s/o N.Ram Yadav,
H.No.3-12-246, Sri Hanuman Temple,
Tirumalagiri, Secunderabad.

..... PETITIONER

AND

1 Government of A.P., rep., by its Prl.Secretary, Endowments Department, Hyderabad.
2 The Commissioner of Endowments, Endowments Department, Hyderabad.
3 Asst.Commissioner of Endowments, Secunderabad Division, Tilak Road, Hyderabad.

4 Hanuman Temple, Tirumalgiri, 3-12-246,

Rep. By its E.O., Secunderabad

(Impleaded as per the order of the Court, dated 20.12.2004)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction more particularly in the nature of writ of mandamus declaring the action of the respondents in seeking to evict the petitioner from 3-12-246 Sri Hanuman Temple, Tirumalgerry, Secunderabad without finalising the application submitted for continuing to stay in payment of fair rent as unconstitutional and consequently direct the respondent to fix fair rent to permit the petitioner to stay in the premises 3-12-246 Sri Hanuman Temple, Tirumalgery, Secunderabad, without any hurdles and pass such order or orders.

Counsel for the Petitioner:MR.K.S.MURTHY

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court, at the made the following :

ORDER:

Petitioner claims to be in possession of the premises bearing No.3-12-246, Sri Hanuman Temple, Tirumalgiri, Secunderabad, since last twenty years. He states that he is performing pujas and acting as Archaka in the Temple. He contends that the respondents are trying to evict him from the premises, without following the procedure prescribed by law, and seeks appropriate directions.

A counter affidavit is filed on behalf of the respondents. It is stated that the petitioner is not an Archaka of the Temple and that he was in unauthorized occupation of the said premises. O.A.No.145 of 2002, is said to have been filed seeking eviction of the petitioner, and that in pursuance of an order passed therein, the petitioner is said to have been evicted on 18.12.2004. It is further stated that R.P.No.188 of 2003, filed by the petitioner against the order in O.A.No.145 of 2002, is also dismissed.

Heard the learned counsel for the petitioner and the learned

Government Pleader for Endowments.

Petitioner had referred in his affidavit to certain proceedings, such as, O.A.No.1253 of 2003, in relation to declaration of the rights of a founder trustee, in relation with the temple. He did not refer to the eviction proceedings initiated against him. The fact remains that by virtue of orders passed in O.A.No.145 of 2002 and confirmed in R.P.No.188 of 2003, the petitioner was evicted on 18.12.2004. Therefore, no relief,

as such, can be granted to the petitioner to enable him to continue in possession of the said premises.

However, in case, the respondents intend to grant lease, in respect of said premises, it shall be open to them to conduct auction of leasehold rights, and if the petitioner is wiling to pay the highest rent, which is fetched in the auction, the respondents shall grant fresh lease to the petitioner on payment of such amount. If the petitioner becomes lessee, in the manner, referred to above, the same shall operate without reference to his previous rights. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 21.02.2005

Note: Furnish copy

in three days

(B/o)

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To

1 The Prl.Secretary, Endowments Department, Government of A.P., Hyderabad.
2 The Commissioner of Endowments, Endowments Department, Hyderabad.
3 Asst.Commissioner of Endowments, Secunderabad Division, Tilak Road, Hyderabad.

4 2 CCs to the Government Pleader for Endowments, High Court Buildings, Hyderabad. (OUT)

5 2CD copies.

6 The Executive officer, Hanuman Temple, Tirumalgiri, 3-12-246,

Secunderabad